

State of Utah

Title and Escrow Commission Meeting

Meeting Information

Date: **May 12, 2008** Time: **9am**

Place: Beehive Room

Members

(Attendees = x)

Commission Members

xChair, Glen W. Roberts, *Utah Cnty* xDavid M. Lattin, *Salt Lake Cnty*
xCanyon W. Anderson, *Davis Cnty* xGarry M. Goodsell, *Iron Cnty*
xJerry M. Houghton, *Tooele Cnty*

Department Staff

xJohn E. "Mickey" Braun, Jr. <i>Ass't Commissioner</i>	xPerri Babalis <i>AG Legal Counsel</i>	Darrel Powell <i>Dir. Market Conduct Admin.</i>	Mark Kleinfeld <i>Law Judge</i>	
xGerri Jones <i>MC Examiner</i>	xSheila Curtis <i>MC Examiner</i>	xConnie Nowland <i>MC Examiner</i>	xSandra Halladay <i>MC Examiner</i>	Jilene Whitby <i>PIO/Recorder</i>

Public

Jack Marinello Jeff Wiener Dan Paulsen James Seamans

MINUTES

- I. **Welcome and Introductions / Glen Roberts meeting started at 9:02am**
- II. **Adoption of Minutes of Previous Meeting**

Garry made the **motion** to approve the minutes, Canyon seconded it and the vote was unanimous.
- III. **Review & Concur with Licensee Report**

Garry made the **motion** to approve the minutes, Canyon seconded it and the vote was unanimous.
- IV. **Number of Cases Open & Closed**
 1. Garry wants a status report on the old cases for 2006. They are on-going, status in the comments section. The industry does not think they are being looked at. Are letters being sent out when a complaint comes through?
 2. Jeff Wiener wanted to know the procedure for filing a complaint. Does it list what evidence is needed to send?
 3. Various comments on how the evidence is compiled. Why hasn't the Commission seen cases from Mark? See the closed e-cases. Should see enforcement in the future.
- V. **Review & Concur with Enforcement Case Report**

Mark was not in attendance since he had no cases to report on.
- VI. **Old business**
 - **Mickey: Update on rules and bulletins**
 - R592-7, Title CE- filed 4-30-08; no hearing; comment period ends 6-16-2008.
 - R592-8, Attorney Exemption; filed 4-30-2008; hearing 6-9-2008 at 9:00am; comment period end 6-16-2008.
 - R592-9, Recovery Fund Assessment; filed 4-30-2008; hearing 6-9-2008 at 10:00am; comment period end 6-16-2008.
 - Bulletin 2008-4, Recovery Fund Initial Capitalization, posted to UID webpage 5-7-2008.
 - **R590-153/R592-6 Unfair Inducement**

- Glen Roberts: Discussion on printed material produced - get rid of that restriction. What does the commission want to do with "R"? Current draft does not include "R".
- Garry Goodsell: Suggestion, adding to what is in "R" now. Recite R as it is now and add, leads for loans, rental lists, not used in the normal course of business, what assurance can be made that the invoice is issued but not paid for? Not allowable, leads, credit reports, rentals. Do we want to limit or leave if a fee is charged? Make sure the fee is collected.
- Glen Roberts: should we put restrictions on or let it play and see what happens. How many would consider leaving R as is or putting limitation on it? Discussion had been made to leave it in.
- Jack Marinello: More and more clients are asking for more and more info. Most of the info is readily available. Let them get their own. Don't provide them because collection is seldom made. If the rule is there they can say "no we can't do that". Take federal law and make it a baseline.
- Discussion: No one has filed a farm package for a long time. Not comfortable with putting a limit on it. How can it be monitored? Put a limit on what can be provided. Makes sense to follow RESPA, put R back in and list what can't be done. Ownership information. Put in 6 what is allowed, what we are providing now. Make a list. Put more of a limit on the marketing end of the budget. Work on a list of what can't be done.
- List of things that cannot appraisal, survey, credit reports. Paragraph R Leads for loans, (labeling, Canyon does not have a problem with this). Can we compete because other states are doing it. RESPA does not do enforcement very well. Do's and don'ts need to be very specific.
- We all understand these items can be provided but maybe need to limit to a dollar amount. Evidence of title cannot be provided without a fee. Bottom line is title agents provide ANYTHING for the clients just to get the business. Need to limit it somewhere. Where do you get the leads for loans? From a software program. Some counties are not free.
- Take a real look at the marketing piece, of what can be spent and what can't. Have Garry send out an e-mail to HUD. HUD's e-mail said leads-for-loans was a violation.
- Anything for value needs to add value. We are not adding value if just printing in a list. You are not adding a value if you give it away and that is a violation.
- Dan Paulsen: The leads are much more valuable than to provide them, jazz games, dinner. Feel the money is better spent. If this is opened then I would put hinder the smaller title agencies because it is more expensive to purchase the program. Can we not mirror RESPA? Some of the rules we have are different than what RESPA has. Why not pull down the RESPA guidelines and mirror them? **Look at RESPA**
- Gerri Jones: On a HUD conference call, it was discussed that some adjoining states only allow \$25.00 per person per year for entertainment. Maybe see what other states have. (Section 8) Our 31A-23a-402 pretty much mirrors RESPA.
- **Call Laura Gipe with HUD. Submit the proposal for what can be done. Put question out on the NAIC Market Analysis bulletin board to poll what other states are doing.**
- Jeff Weiner: Send the client to the data source and let them obtain it themselves. They could explain to them how it is used or how to get it. Jeff will get the western region's marketing items for next meeting.
- **List Cannot:**
 - Appraisals, credit reports, FSBOs, rentals, printed labels, surveys, building plans, Mortgage leads for loans. If not pulled from public data base don't provide
 - Cannot provide access through your account, from the software, to get the information. Don't give out your password for others to get the information, maybe even restrict the title agency from having / subscribing to the software in the first place. Do they need it for closings or just to give to clients? Restrict the title agency from even having a password, subscribing to the software. **(put this part in the R section and bring to the commission)**

- Separate paragraph own letter after R; providing financing, any company, employee of the title agency – (402) Affiliated with title agency, private funds to provide builders to do subdivision. To provide all the title work. Hard-money lending. Loan is ok but don't bring me the title business. Something along those lines. Bring this before next month. ABA's (Affiliated Business Arrangements) real concern. Utah has good laws on this.

VII. New business

- **Escrow fees:** (get SUTCO scale – put a section into the R592-3 and 4 somewhere)
 - Discussion; Escrow must support itself not subsidized the title. How will small counties handle that?
 - Along the Wasatch front, doc prep fee combined with settlement fee totals \$250. Cannot be padded or discounted from that. The costs in a small county are about that. Buy/sell same price both sides would be \$500, \$250 each side. A developer gets a discount on the premium dollar now, so don't charge different rate for them.
 - Promulgate all the fees or just set a minimum. For now just set the minimum on the escrow. Where do you bump the next scale price? \$250,000 – \$250 up to 500,000- \$350, 501 to million would be \$500 then up from there. No distinction between commercial and residential. Still minimum. Can charge more. Maybe the \$250 is too low, since you are taking out all the fees and charging only the one fee.
 - Review items table for next time. Idaho sets it by the medium home price, set though areas. Lets look at the sliding scale. The average home sale is \$250,000. All other fees would be rolled into the escrow fee of \$450.

VIII. Other business:

- This is Gerri's last meeting. All the Commission members wished Gerri the best of luck and they will miss her.

IX. Adjourned: 12:05pm Glen motioned to adjourn.

X. Next Meeting: June 9, 2008 11:00 Room to be determined (Rule hearing at 9:00am and 10:00am).